

AMENDED IN ASSEMBLY SEPTEMBER 6, 2005

AMENDED IN ASSEMBLY JUNE 14, 2005

SENATE BILL

No. 67

Introduced by Committee on Budget and Fiscal Review

January 14, 2005

~~An act relating to the Budget Act of 2005. An act to amend Sections 68085, 68085.7, and 68085.8 of, and to add Section 68085.9 to, the Government Code, and to amend Sections 1203.4, 1203.45, and 1214.1 of the Penal Code, relating to courts, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 67, as amended, Committee on Budget and Fiscal Review.
Budget Act of 2005: *Court fees.*

(1) *Existing law establishes the Trial Court Trust Fund, the proceeds of which are apportioned for the purposes of funding trial court operations. Existing law specifies certain fees that are to be collected in a special account in the county treasury and transmitted monthly to the Controller for deposit in the Trial Court Trust Fund.*

This bill would require, until January 1, 2006, and upon direction of the Administrative Office of the Courts, the court and the county to deposit certain of those fees as soon as practicable into a bank account specified by the Administrative Office of the Courts, for transmission to the Controller for deposit in the Trial Court Trust Fund in accordance with specified procedures.

This bill would make other technical changes to these provisions.

(2) *Under existing law, certain court fees and fines other than those described in (1), that are not subject to a local revenue sharing agreement or practice, are required to be deposited in a special account in the county treasury, except as to costs incurred by and*

services provided by the superior court which are transmitted monthly to the Controller for deposit in the Trial Court Trust Fund.

This bill would require, until January 1, 2006, the distribution of those other court fees and fines to the court or the county, whichever provided the services or incurred the costs. The bill would expand the fees to which that provision applies, to include fees for providing private conservators with written information concerning a conservator's rights, duties, limitations, and responsibilities. The bill would provide for the distribution of these fees and fines, and certain of the fees described in (1), commencing January 1, 2006.

This bill would authorize the court, with the consent of the county and the Administrative Director of the Courts, to deposit all money required to be deposited into the county treasury or with the county treasurer into a bank account established by the Administrative Office of the Courts separate from the county treasury. The bill also would authorize the Judicial Council, with the consent of the county, to require the court and officer to deposit money into such a bank account.

(3) Existing law requires a person who petitions for a change of plea, setting aside of a verdict, or an order sealing a record in specified cases to reimburse the county and any city for the actual cost of services rendered, whether or not the petition is granted and the records are sealed or expunged, at a rate to be determined by the county board of supervisors and the city council not to exceed \$120 each.

This bill would require the person to also reimburse the court for the actual cost of services rendered, whether or not the petition is granted and the records are sealed or expunged, at a rate to be determined by the court not to exceed \$120.

(4) Under existing law, a court may impose a civil assessment of up to \$300 against a criminal defendant who fails to appear in court, as specified. Existing law also requires each court and county to maintain the collection program for these civil assessments that was in effect on July 1, 2005, unless otherwise agreed to by those entities, and provides for third-party arbitration in the event the court and county do not agree on a plan for the collection of those civil assessments. Existing law further requires the court to deposit the money collected under that provision as soon as practicable into a bank account specified by the Administrative Office of the Courts, for

transmission to the Controller for deposit in the Trial Court Trust Fund, in accordance with specified procedures.

This bill would authorize a court or county to request third-party arbitration in the event the court and county do not agree on a plan for the collection of these civil assessments or any other moneys owed for fees, fines, forfeitures, penalties, and assessments imposed by the court, as specified. The bill would delete the deposit requirements and procedures from this provision.

(5) This bill would declare that it is to take effect immediately as an urgency statute.

~~This bill would express the intent of the Legislature to make statutory changes relating to the Budget Act of 2005.~~

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 68085 of the Government Code, as
2 amended by Section 42 of Chapter 74 of the Statutes of 2005, is
3 amended to read:

4 68085. (a) (1) There is hereby established the Trial Court
5 Trust Fund, the proceeds of which shall be apportioned at least
6 quarterly for the purpose of funding trial court operations, as
7 defined in Section 77003. Apportionment payments may not
8 exceed 30 percent of the total annual apportionment to the Trial
9 Court Trust Fund for state trial court funding in any 90-day
10 period.

11 (2) The apportionment payments shall be made by the
12 Controller. The final payment from the Trial Court Trust Fund
13 for each fiscal year shall be made on or before August 31 of the
14 subsequent fiscal year.

15 (3) If apportionment payments are made on a quarterly basis,
16 the payments shall be on July 15, October 15, January 15, and
17 April 15. In addition to quarterly payments, a final payment from
18 the Trial Court Trust Fund for each fiscal year may be made on
19 or before August 31 of the subsequent fiscal year.

20 (4) Notwithstanding any other provision of law, in order to
21 promote statewide efficiency, the Judicial Council may authorize
22 the direct payment or reimbursement or both of actual costs from
23 the Trial Court Trust Fund or the Trial Court Improvement Fund

1 to fund administrative infrastructure within the Administrative
2 Office of the Courts, such as legal services, financial services,
3 information systems services, human resource services, and
4 support services, for one or more participating courts upon
5 appropriation of funding for these purposes in the annual Budget
6 Act. The amount of appropriations from the Trial Court
7 Improvement Fund under this subdivision may not exceed 20
8 percent of the amount deposited in the Trial Court Improvement
9 Fund pursuant to subdivision (a) of Section 77205. Upon prior
10 written approval of the Director of Finance, the Judicial Council
11 may also authorize an increase in any reimbursements or direct
12 payments in excess of the amount appropriated in the annual
13 Budget Act. For any increases in reimbursements or direct
14 payments within the fiscal year that exceed two hundred
15 thousand dollars (\$200,000), the Director of Finance shall
16 provide notification in writing of any approval granted under this
17 section, not less than 30 days prior to the effective date of that
18 approval, to the chairperson of the committee in each house of
19 the Legislature that considers appropriations, the chairpersons of
20 the committees and the appropriate subcommittees in each house
21 of the Legislature that consider the annual Budget Act, and the
22 Chairperson of the Joint Legislative Budget Committee, or not
23 sooner than whatever lesser time the Chairperson of the Joint
24 Legislative Budget Committee, or his or her designee, may in
25 each instance, determine. The direct payment or reimbursement
26 of costs from the Trial Court Trust Fund may be supported by the
27 reduction of a participating court's allocation from the Trial
28 Court Trust Fund to the extent that the court's expenditures for
29 the program are reduced and the court is supported by the
30 program. The Judicial Council shall provide the affected trial
31 courts with quarterly reports on expenditures from the Trial
32 Court Trust Fund incurred as authorized by this subdivision. The
33 Judicial Council shall establish procedures to provide for the
34 administration of this paragraph in a way that promotes the
35 effective, efficient, reliable, and accountable operation of the trial
36 courts.

37 (b) Notwithstanding any other provision of law, the fees listed
38 in subdivision (c) shall all be deposited upon collection in a
39 special account in the county treasury, and transmitted monthly
40 to the Controller for deposit in the Trial Court Trust Fund.

(c) (1) Except as specified in subdivision (d), this section applies to all fees collected pursuant to Sections 631.3, 116.230, and 403.060 of the Code of Civil Procedure and Sections 26820.4, 26823, 26826, 26826.01, 26827, 26827.4, 26830, 26832.1, 26833.1, 26835.1, 26836.1, 26837.1, 26838, 26850.1, 26851.1, 26852.1, 26853.1, 26855.4, 26862, 68086, 72055, 72056, 72056.01, and 72060.

(2) Notwithstanding any other provision of law, except as specified in subdivision (d) *of this section and subdivision (a) of Section 68085.7*, this section applies to all fees and fines collected pursuant to Sections 116.390, 116.570, 116.760, 116.860, 177.5, 491.150, 704.750, 708.160, 724.100, 1134, 1161.2, and 1218 of the Code of Civil Procedure, Sections 26824, 26828, 26829, 26834, and 72059 of this code, and ~~Sections~~ *subdivisions (b) and (c) of Section 166 and Section 1214.1 of the Penal Code.*

(3) If any of the fees provided for in this subdivision are partially waived by court order, and the fee is to be divided between the Trial Court Trust Fund and any other fund, the amount of the partial waiver shall be deducted from the amount to be distributed to each fund in the same proportion as the amount of each distribution bears to the total amount of the fee.

(d) This section does not apply to that portion of a filing fee collected pursuant to Section 26820.4, 26826, 26827, 72055, or 72056 which is allocated for dispute resolution pursuant to Section 470.3 of the Business and Professions Code, the county law library pursuant to Section 6320 of the Business and Professions Code, the Judges' Retirement Fund pursuant to Section 26822.3, automated recordkeeping or conversion to micrographics pursuant to Sections 26863 and 68090.7, and courthouse financing pursuant to Section 76238. This section also does not apply to fees collected pursuant to subdivisions (a) and (c) of Section 27361.

(e) This section applies to all payments required to be made to the State Treasury by any county or city and county pursuant to Section 77201, 77201.1, or 77205.

(f) Notwithstanding any other provision of law, no agency may take action to change the amounts allocated to any of the funds described in subdivision (a), (b), (c), or (d).

(g) The Judicial Council shall reimburse the Controller for the actual administrative costs that will be incurred under this section. Costs reimbursed under this section shall be determined on an annual basis in consultation with the Judicial Council.

(h) Any amounts required to be transmitted by a county or city and county to the state pursuant to this section shall be remitted to the Controller no later than 45 days after the end of the month in which the fees were collected. This remittance shall be accompanied by a remittance advice identifying the collection month and the appropriate account in the Trial Court Trust Fund to which it is to be deposited. Any remittance that is not made by the county or city and county in accordance with this section shall be considered delinquent, and subject to the penalties specified in this section.

(i) Upon receipt of any delinquent payment required pursuant to this section, the Controller shall calculate a penalty on any delinquent payment by multiplying the amount of the delinquent payment at a daily rate equivalent to 1 ½ percent per month for the number of days the payment is delinquent. Notwithstanding Section 77009, any penalty on a delinquent payment that a court is required to reimburse to a county's general fund pursuant to this section and Section 24353 shall be paid from the Trial Court Operations Fund for that court.

(j) Penalty amounts calculated pursuant to subdivision (i) shall be paid by the county to the Trial Court Trust Fund no later than 45 days after the end of the month in which the penalty was calculated.

(k) The Trial Court Trust Fund shall be invested in the Surplus Money Investment Fund and all interest earned shall be allocated to the Trial Court Trust Fund quarterly and shall be allocated among the courts in accordance with the requirements of subdivision (a). The specific allocations shall be specified by the Judicial Council.

(l) It is the intent of the Legislature that the revenues required to be deposited into the Trial Court Trust Fund be remitted as soon after collection by the courts as possible.

SEC. 2. Section 68085.7 of the Government Code is amended to read:

68085.7. (a) (1) Notwithstanding any other provision of law, Section 68085.5 does not apply to the following fees and fines

collected on or after July 1, 2005: any fees and fines specified in subdivision (a) or (b) of Section 68085.5, Section 177.5 or 1218 of the Code of Civil Procedure, or Section 166 or 1214.1 of the Penal Code. Commencing July 1, 2005, these fees and fines shall be distributed as provided by Section 68085 or, if no provision is made in Section 68085, the section that provides for the fee or fine, except that the fees listed in subdivision (b) of Section 68085.5 and the fee in Section 1835 of the Probate Code shall be distributed to the court or the county, whichever provided the services for which the fee is charged or incurred the costs reimbursed by the fee.

(2) Notwithstanding any other provision of law, until January 1, 2006, upon direction of the Administrative Office of the Courts, the court and the county shall deposit the money each collects under the sections listed in paragraph (2) of subdivision (c) of Section 68085 as soon as practicable after collection and on a regular basis into a bank account established for this purpose and specified by the Administrative Office of the Courts. The deposits shall be made as required by rules adopted by and financial policies and procedures authorized by the Judicial Council under subdivision (a) of Section 77206 of the Government Code. Within 15 days after the end of the month in which the money is collected, the court and the county each shall provide the Administrative Office of the Courts with a report of the money it collects, as specified by the Administrative Office of the Courts. The money shall be transmitted to the State Controller for deposit in the Trial Court Trust Fund by the Administrative Office of the Courts.

(3) Commencing January 1, 2006, the fees and fines listed in Section 68085.5 shall be distributed as provided by Section 68085.1, or if no provision is made in Section 68085.1, as specified in the section that provides for the fee or fine. The fees in sections 26840.1, 26847, 26854, 26855.1, 26855.2, and 27293 shall be distributed to the county.

(b) Commencing July 1, 2005, in each fiscal year, the amount of each county's annual remittance to the state Trial Court Trust Fund under paragraph (2) of subdivision (b) of Section 77201.1 shall be reduced by the amount that the county received from civil assessments under Section 1214.1 of the Penal Code, after deducting the cost of collecting those civil assessments as

1 defined in subdivision (f), in the 2003–04 fiscal year. The
2 reduction provided by this subdivision for the 2005–06 fiscal year
3 shall apply only to a county that transmits to the Trial Court
4 Trust Fund any money received by the county between July 1,
5 2005 and the effective date of this section that would have been
6 transmitted to the Trial Court Trust Fund pursuant to subdivision
7 (a), and the amendments to Section 68085 of this code and
8 Section 1214.1 of the Penal Code, if this section had been
9 effective on July 1, 2005.

10 (c) The amount of the reduction under this section for each
11 county shall be determined by agreement between the
12 Administrative Office of the Courts (AOC) and the California
13 State Association of Counties (CSAC). Each county and each
14 superior court shall exchange relevant factual information to
15 determine and jointly report to the AOC and the CSAC the total
16 amount the county received from civil assessments for the
17 2003–04 fiscal year, both gross and net after costs, on or before
18 August 31, 2005. If the court and the county do not agree on the
19 amount, the court and the county shall each report the amount
20 each believes is correct to the AOC and the CSAC on or before
21 August 31, 2005.

22 (d) The AOC and the CSAC shall agree on the amount of the
23 reduction for each county under this section on or before October
24 31, 2005. If a court or county disagrees with the amount agreed
25 to by the AOC and the CSAC for that county, the court or county
26 may appeal to the AOC and the CSAC for an adjustment. The
27 AOC and the CSAC shall determine whether to make any
28 requested adjustment.

29 (e) If the AOC and the CSAC do not agree on the amount of
30 the reduction for a county, they may request a mutually
31 agreed-upon third party to arbitrate and determine the amount.
32 The amount shall be determined on or before December 31,
33 2005.

34 (f) Guidelines of the Controller shall apply to the
35 determination of revenues from civil assessments under Section
36 1214.1 of the Penal Code. The costs of collecting civil
37 assessments applied in determining net civil assessments are only
38 those costs used to collect those civil assessments.

39 *SEC. 3. Section 68085.8 of the Government Code is amended*
40 *to read:*

68085.8. (a) On or before December 31, 2005, the Administrative Office of the Courts (AOC) and the California State Association of Counties (CSAC) shall complete an initial review of the impact upon individual counties and courts of the changes in revenue distributions and payment obligations under Sections 68085.6, and 68085.7 for the purpose of correcting inequities that may result from these changes. The AOC and CSAC shall work with counties and courts to develop and implement procedures to correct inequities resulting from either the implementation of these changes or any changes in the provision of services or benefits under any of the following circumstances:

(1) Institution of new civil assessment programs after the 2003–04 fiscal year.

(2) Substantial impacts on memoranda of understanding or other agreements that are existing or pending as of June 10, 2005, or practices in effect at that time, which agreements and practices contemplate the use of revenues transferred under the act that added this section.

(3) The demonstration by clear evidence that the information used as the basis for determining a reduction under Section 68085.7, or for determining a county’s obligation under Section 68085.6, results in an inequity, and that the inequity imposes an undue hardship on the court or county.

(b) Inequities may be corrected by one or more of the following mechanisms:

(1) Adjustment of the reduction under subdivision (b) of Section 68085.7.

(2) Adjustment of the amount of a county’s obligation under subdivision (a) of Section 68085.6.

(3) Adjustment of allocations to a trial court ~~to~~ *from* the Trial Court Trust Fund under subdivision (a) of Section 68085.

(4) If necessary, with agreement of the court and county, adjustments of the rights and duties of the parties under memoranda of understanding or other agreements or practices.

The adjustments under paragraphs (1) to (4), inclusive, may be temporary or permanent. Adjustments under this section shall be made only with the mutual agreement of the AOC and CSAC.

SEC. 4. Section 68085.9 is added to the Government Code, to read:

1 68085.9. *Notwithstanding any other provision of law*
2 *requiring a trial court or officer of a trial court to deposit money*
3 *received by the court or officer into the county treasury or with*
4 *the county treasurer, including but not limited to Sections 24353,*
5 *68085, 68085.5, and 68101 of this code and Section 1463.001 of*
6 *the Penal Code, the court or officer, with the consent of the*
7 *county and the Administrative Director of the Courts, may*
8 *deposit all money required to be deposited into the county*
9 *treasury or with the county treasurer into a bank account*
10 *established by the Administrative Office of the Courts separate*
11 *from the county treasury. Money collected pursuant to Section*
12 *68085.1 of this code shall be deposited as provided in that*
13 *section. The Judicial Council, with the consent of the county, may*
14 *require the court and officer to deposit money into a bank*
15 *account established by the Administrative Office of the Courts*
16 *separate from the county treasury.*

17 SEC. 5. *Section 1203.4 of the Penal Code is amended to*
18 *read:*

19 1203.4. (a) In any case in which a defendant has fulfilled the
20 conditions of probation for the entire period of probation, or has
21 been discharged prior to the termination of the period of
22 probation, or in any other case in which a court, in its discretion
23 and the interests of justice, determines that a defendant should be
24 granted the relief available under this section, the defendant shall,
25 at any time after the termination of the period of probation, if he
26 or she is not then serving a sentence for any offense, on probation
27 for any offense, or charged with the commission of any offense,
28 be permitted by the court to withdraw his or her plea of guilty or
29 plea of nolo contendere and enter a plea of not guilty; or, if he or
30 she has been convicted after a plea of not guilty, the court shall
31 set aside the verdict of guilty; and, in either case, the court shall
32 thereupon dismiss the accusations or information against the
33 defendant and except as noted below, he or she shall thereafter be
34 released from all penalties and disabilities resulting from the
35 offense of which he or she has been convicted, except as
36 provided in Section 13555 of the Vehicle Code. The probationer
37 shall be informed, in his or her probation papers, of this right and
38 privilege and his or her right, if any, to petition for a certificate of
39 rehabilitation and pardon. The probationer may make the
40 application and change of plea in person or by attorney, or by the

1 probation officer authorized in writing. However, in any
2 subsequent prosecution of the defendant for any other offense,
3 the prior conviction may be pleaded and proved and shall have
4 the same effect as if probation had not been granted or the
5 accusation or information dismissed. The order shall state, and
6 the probationer shall be informed, that the order does not relieve
7 him or her of the obligation to disclose the conviction in response
8 to any direct question contained in any questionnaire or
9 application for public office, for licensure by any state or local
10 agency, or for contracting with the California State Lottery.

11 Dismissal of an accusation or information pursuant to this
12 section does not permit a person to own, possess, or have in his
13 or her custody or control any firearm or prevent his or her
14 conviction under Section 12021.

15 This subdivision shall apply to all applications for relief under
16 this section which are filed on or after November 23, 1970.

17 (b) Subdivision (a) of this section does not apply to any
18 misdemeanor that is within the provisions of subdivision (b) of
19 Section 42001 of the Vehicle Code, to any violation of
20 subdivision (c) of Section 286, Section 288, subdivision (c) of
21 Section 288a, Section 288.5, or subdivision (j) of Section 289,
22 any felony conviction pursuant to subdivision (d) of Section
23 261.5, or to any infraction.

24 (c) A person who petitions for a change of plea or setting aside
25 of a verdict under this section may be required *to reimburse the*
26 *court for the actual cost of services rendered, whether or not the*
27 *petition is granted and the records are sealed or expunged, at a*
28 *rate to be determined by the court not to exceed one hundred*
29 *twenty dollars (\$120), and to reimburse the county for the actual*
30 *cost of services rendered, whether or not the petition is granted*
31 *and the records are sealed or expunged, at a rate to be determined*
32 *by the county board of supervisors not to exceed one hundred*
33 *twenty dollars (\$120), and to reimburse any city for the actual*
34 *cost of services rendered, whether or not the petition is granted*
35 *and the records are sealed or expunged, at a rate to be determined*
36 *by the city council not to exceed one hundred twenty dollars*
37 *(\$120). Ability to make this reimbursement shall be determined*
38 *by the court using the standards set forth in paragraph (2) of*
39 *subdivision (g) of Section 987.8 and shall not be a prerequisite to*
40 *a person's eligibility under this section. The court may order*

1 reimbursement in any case in which the petitioner appears to
2 have the ability to pay, without undue hardship, all or any portion
3 of the cost for services established pursuant to this subdivision.

4 (d) No relief shall be granted under this section unless the
5 prosecuting attorney has been given 15 days' notice of the
6 petition for relief. The probation officer shall notify the
7 prosecuting attorney when a petition is filed, pursuant to this
8 section.

9 It shall be presumed that the prosecuting attorney has received
10 notice if proof of service is filed with the court.

11 (e) If, after receiving notice pursuant to subdivision (d), the
12 prosecuting attorney fails to appear and object to a petition for
13 dismissal, the prosecuting attorney may not move to set aside or
14 otherwise appeal the grant of that petition.

15 (f) Notwithstanding the above provisions or any other
16 provision of law, the Governor shall have the right to pardon a
17 person convicted of a violation of subdivision (c) of Section 286,
18 Section 288, subdivision (c) of Section 288a, Section 288.5, or
19 subdivision (j) of Section 289, if there are extraordinary
20 circumstances.

21 *SEC. 6. Section 1203.45 of the Penal Code is amended to*
22 *read:*

23 1203.45. (a) In any case in which a person was under the age
24 of 18 years at the time of commission of a misdemeanor and is
25 eligible for, or has previously received, the relief provided by
26 Section 1203.4 or 1203.4a, that person, in a proceeding under
27 Section 1203.4 or 1203.4a, or a separate proceeding, may petition
28 the court for an order sealing the record of conviction and other
29 official records in the case, including records of arrests resulting
30 in the criminal proceeding and records relating to other offenses
31 charged in the accusatory pleading, whether defendant was
32 acquitted or charges were dismissed. If the court finds that the
33 person was under the age of 18 at the time of the commission of
34 the misdemeanor, and is eligible for relief under Section 1203.4
35 or 1203.4a or has previously received that relief, it may issue its
36 order granting the relief prayed for. Thereafter the conviction,
37 arrest, or other proceeding shall be deemed not to have occurred,
38 and the petitioner may answer accordingly any question relating
39 to their occurrence.

1 (b) This section applies to convictions which occurred before,
2 as well as those which occur after, the effective date of this
3 section.

4 (c) This section shall not apply to offenses for which
5 registration is required under Section 290, to violations of
6 Division 10 (commencing with Section 11000) of the Health and
7 Safety Code, or to misdemeanor violations of the Vehicle Code
8 relating to operation of a vehicle or of any local ordinance
9 relating to operation, standing, stopping, or parking of a motor
10 vehicle.

11 (d) This section does not apply to a person convicted of more
12 than one offense, whether the second or additional convictions
13 occurred in the same action in which the conviction as to which
14 relief is sought occurred or in another action, except in the
15 following cases:

16 (1) One of the offenses includes the other or others.

17 (2) The other conviction or convictions were for the following:

18 (A) Misdemeanor violations of Chapters 1 (commencing with
19 Section 21000) to 9 (commencing with Section 22500),
20 inclusive, Chapter 12 (commencing with Section 23100), or
21 Chapter 13 (commencing with Section 23250) of Division 11 of
22 the Vehicle Code, other than Section 23103, 23104, 23152,
23 23153, or 23220.

24 (B) Violation of any local ordinance relating to the operation,
25 stopping, standing, or parking of a motor vehicle.

26 (3) The other conviction or convictions consisted of any
27 combination of paragraphs (1) and (2).

28 (e) This section shall apply in any case in which a person was
29 under the age of 21 at the time of the commission of an offense
30 as to which this section is made applicable if that offense was
31 committed prior to March 7, 1973.

32 (f) In any action or proceeding based upon defamation, a
33 court, upon a showing of good cause, may order any records
34 sealed under this section to be opened and admitted into
35 evidence. The records shall be confidential and shall be available
36 for inspection only by the court, jury, parties, counsel for the
37 parties, and any other person who is authorized by the court to
38 inspect them. Upon the judgment in the action or proceeding
39 becoming final, the court shall order the records sealed.

(g) A person who petitions for an order sealing a record under this section may be required *to reimburse the court for the actual cost of services rendered, whether or not the petition is granted and the records are sealed or expunged, at a rate to be determined by the court not to exceed one hundred twenty dollars (\$120), and to reimburse the county for the actual cost of services rendered, whether or not the petition is granted and the records are sealed or expunged, at a rate to be determined by the county board of supervisors not to exceed one hundred twenty dollars (\$120), and to reimburse any city for the actual cost of services rendered, whether or not the petition is granted and the records are sealed or expunged, at a rate to be determined by the city council not to exceed one hundred twenty dollars (\$120).* Ability to make this reimbursement shall be determined by the court using the standards set forth in paragraph (2) of subdivision (g) of Section 987.8 and shall not be a prerequisite to a person's eligibility under this section. The court may order reimbursement in any case in which the petitioner appears to have the ability to pay, without undue hardship, all or any portion of the cost for services established pursuant to this subdivision.

SEC. 7. Section 1214.1 of the Penal Code is amended to read:

1214.1. (a) In addition to any other penalty in infraction, misdemeanor, or felony cases, the court may impose a civil assessment of up to three hundred dollars (\$300) against any defendant who fails, after notice and without good cause, to appear in court for any proceeding authorized by law or who fails to pay all or any portion of a fine ordered by the court. This assessment shall be deposited in the Trial Court Trust Fund, as provided in Section 68085 of the Government Code.

(b) The assessment shall not become effective until at least 10 calendar days after the court mails a warning notice to the defendant by first-class mail to the address shown on the notice to appear or to the defendant's last known address. If the defendant appears within the time specified in the notice and shows good cause for the failure to appear or for the failure to pay a fine, the court shall vacate the assessment.

(c) If a civil assessment is imposed under this section, no bench warrant or warrant of arrest shall be issued with respect to the failure to appear at the proceeding for which the assessment

1 is imposed or the failure to pay the fine. An outstanding,
2 unserved bench warrant or warrant of arrest for a failure to
3 appear or for a failure to pay a fine shall be recalled prior to the
4 subsequent imposition of a civil assessment.

5 (d) The assessment imposed under subdivision (a) shall be
6 subject to the due process requirements governing defense and
7 collection of civil money judgments generally.

8 (e) Each court and county shall maintain the collection
9 program that was in effect on July 1, 2005, unless otherwise
10 agreed to by the court and county. If a court and a county do not
11 agree on a plan for the collection of civil assessments imposed
12 pursuant to this section, *or any other collections under Section*
13 *1463.010*, after the implementation of Sections 68085.6 and
14 68085.7 of the Government Code, the court or the county may
15 request arbitration by a third party mutually agreed upon by the
16 Administrative Director of the Courts and the California State
17 Association of Counties.

18 ~~(f) Notwithstanding any other provision of law, upon direction~~
19 ~~of the Administrative Office of the Courts, the court shall deposit~~
20 ~~the money collected under this section as soon as practicable~~
21 ~~after collection and on a regular basis into a bank account~~
22 ~~specified by the Administrative Office of the Courts. The~~
23 ~~deposits shall be made as required by rules adopted by and~~
24 ~~financial policies and procedures authorized by the Judicial~~
25 ~~Council under subdivision (a) of Section 77206 of the~~
26 ~~Government Code. Within 15 days after the end of the month in~~
27 ~~which the money is collected, the court shall provide the~~
28 ~~Administrative Office of the Courts with a report of the money~~
29 ~~collected as specified by the Administrative Office of the Courts.~~
30 ~~The money shall be transmitted to the Controller for deposit in~~
31 ~~the Trial Court Trust Fund by the Administrative Office of the~~
32 ~~Courts.~~

33 *SEC. 8. This act is an urgency statute necessary for the*
34 *immediate preservation of the public peace, health, or safety*
35 *within the meaning of Article IV of the Constitution and shall go*
36 *into immediate effect. The facts constituting the necessity are: In*
37 *order to implement the Budget Act of 2005, it is necessary for*
38 *this act to take effect immediately.*

1 ~~SECTION 1. It is the intent of the Legislature to make~~
2 ~~statutory changes relating to the Budget Act of 2005.~~

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